

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)
FOR REVIEW BY:)

ORLANDO BROWN,
Petitioner.

) CHARGE NO.: 2008CF2021
) EEOC NO.: 21BA81011
) ALS NO.: 10-0340
)

ORDER

This matter coming before the Commission by a panel of three, Commissioners Munir Muhammad¹, Rozanne Ronen, and Nabi Fakroddin, presiding, upon Orlando Brown's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")² of Charge No. 2008CF2021; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, **THEREFORE** it is hereby **ORDERED**:

- A.** The Respondent's dismissal of the Petitioner's Charge is **VACATED**.
- B.** The Petitioner's Charge is **REINSTATED** and **REMANDED** to the Respondent for further investigation, and for further proceedings consistent with this Order and the Act.

In support of which determination the Commission states the following:

1. The Petitioner filed a charge of discrimination with the Respondent on February 5, 2008. The Petitioner alleged his employer, the Chicago Police Department ("CPD"), subjected him to harassment on November 7, 2007, November 26, 2007, and January 16, 2008, because of his race, Black (Count A), and in retaliation for having opposed unlawful discrimination (Count B), in violation of Sections 2-102(A) and 6-101(A), respectively, of the Illinois Human Rights Act (the "Act"). On April 1, 2010, the Respondent dismissed the charge for Lack of Substantial Evidence. On May 5, 2010, the Petitioner filed this timely Request.
2. The Petitioner is a Sergeant with the CPD.

¹ Commissioner Muhammad recused himself and abstained from the vote. The Commission panel's decision passed with a majority vote of two in favor, none opposed, and one abstention.

² In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge who is requesting review of the Department's action shall be referred to as the "Petitioner."

3. The Petitioner's Captain P.G. (race, non-Black) filed a complaint against the Petitioner with the CPD's Internal Affairs Division ("IAD"). Captain P.G. accused the Petitioner of falsifying log books.
4. On November 7, 2007, the IAD conducted a hearing into Captain P.G.'s complaint. The Petitioner contends he was harassed by an IAD investigator (race, non-Black) during the hearing because the IAD investigator refused to record the Petitioner's responses in a manner that was consistent with the Petitioner's testimony.
5. Also on November 7, 2007, the Petitioner submitted a letter of complaint to the CPD's Assistant Deputy Superintendent for Internal Affairs about the IAD investigator's conduct and biased demeanor during the hearing. The Petitioner complained that the IAD investigator had behaved in a racially discriminatory manner during the hearing.
6. On November 26, 2007, Captain P.G. submitted additional charges to the IAD against the Petitioner for falsifying log books.
7. On December 6, 2007, the Petitioner filed Charge No. 2008CF1455 with the Respondent against CPD.
8. On January 16, 2008, while waiting for medical treatment, the Petitioner was summoned to the IAD's office to provide a statement regarding Charge No. 2008CF1455.
9. In his charge, the Petitioner alleged the CPD harassed him on November 7, 2007, November 26, 2007, and January 16, 2008, because of his race, Black, and in retaliation for having engaged in protected activity on November 7, 2007, and December 6, 2007.
10. In his Request, the Petitioner requests a complete and thorough review of his case with all documents properly questioned and verified. The Petitioner argues that Captain P.G. has a history of discriminatory treatment against minority CPD officers. The Petitioner states that he submitted his log books after they had been reviewed and approved by both Captain P.G. and the Petitioner's Commander. The Petitioner stated that when he attempted to retrieve copies of his logs from the CPD's District Manager in order to prove his logs were accurate, the Petitioner was informed that many of his logs were missing. The Petitioner further states that on January 16, 2008, the CPD ordered him to give a statement regarding the December 2007 discrimination charge. The Petitioner contends that he was willing to give a statement, but that he asked to reschedule the meeting for later the same day or for the next day so that he could retrieve his notes. The Petitioner states he was denied this opportunity and ordered by CPD to provide a statement immediately.

11. In its Response, the Respondent argues that the dismissal of the charge should be sustained because there was no substantial evidence of discrimination or retaliation.

Conclusion

The Commission herein vacates the dismissal of both Count A and Count B of the Petitioner's charge based on its determination that further investigation is warranted.

As to Count A, the Petitioner's racial harassment claim, the Petitioner argues in his Request that Captain P.G. has a history of racial discrimination complaints being lodged against him. The Petitioner further contends Captain P.G. has a history of falsifying complaints against minority CPD officers. The CPD is in the best position to provide relevant information which may or may not substantiate the Petitioner's claim that Captain P.G. has a record of racial bias against minority CPD officers. In particular, CPD would have access to any internal racial discrimination complaints filed against Captain P.G., as well as names of any minority CPD officers who have similarly accused Captain P.G. of falsifying charges against them. Therefore, the Commission finds that the Respondent shall conduct further investigation into the Petitioner's contention that Captain P.G. harbors racial animus against minority CPD officers, and that Captain P.G. may have a pattern and history of falsifying complaints against minority CPD officers.

As to Count B, the Petitioner's retaliation claim, the Commission finds that further investigation is needed into the alleged civil rights violation of November 26, 2007, when Captain P.G. filed additional charges against the Petitioner with the IAD. On November 7, 2007, the Petitioner opposed what he believed to have been unlawful discrimination. Nineteen days later on November 26, 2007, the Petitioner was subjected to adverse action when Captain P.G. accused the Petitioner of thirteen additional acts of misconduct. In light of the close proximity between the Petitioner's protected activity and the adverse action to which he was subjected, further investigation is needed into Count B to determine if a causal connection exists between the protected activity and the adverse action.

The Commission concludes the Petitioner's Request is persuasive. Therefore, the dismissal of the charge is vacated and the charge is reinstated and remanded to the Respondent for further investigation as herein instructed.

WHEREFORE, IT IS HEREBY ORDERED THAT:

- A.** The Respondent's dismissal of the Petitioner's charge is **VACATED**.
- B.** The charges are **REINSTATED** and **REMANDED** to the Respondent for further investigation, and for further proceedings consistent with this Order and the Act.

This Order is not yet final and appealable.

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| STATE OF ILLINOIS |) | Entered this 16 th day of March 2011. |
| HUMAN RIGHTS COMMISSION |) | |

Commissioner Munir Muhammad

Commissioner Rozanne Ronen

Commissioner Nabi Fakroddin